IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 24TH SEPTEMBER 2007 / 2ND ASWINA 1929

WP(C).No. 10434 of 2007(P)

PETITIONER:

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1. DRUGS & PHARMACEUTICALS EMPLOYEES ASSOCIATION (AITUC), REGISTERED NO.213/75, KALAVOOR, ALAPPUZHA, REPRESENTED BY ITS GENERAL SECRETARY, K.G.PRAKASAN.

2. KERALA STATE DRUGS AND PHARMACEUTICALS WORKERS CONGRESS (INTUC), REGISTERED NO.372/75, KALAVOOR, ALAPPUZHA, REPRESENTED BY ITS SECRETARY M. KRISHNAN.

BY ADV. SRI.P.V.BABY
SRI.A.N.SANTHOSH

RESPONDENTS:

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1. KERALA STATE DRUGS AND PHARMACEUTICALS LTD., KALAVOOR, ALAPPUZHA, REPRESENTED BY ITS MANAGING DIRECTOR.

2. STATE OF KERALA, REPRESENTED BY ITS SECRETARY TO INDUSTRIES DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

3. KERALA STATE DRUGS AND PHARMACEUTICALS EMPLOYEES' UNION (C.I.T.U) REGISTERED NO.296/75, KALAVOOR-688 522, ALAPPUZHA. IMPLEDEAD AS PER ORDER IN I.A.NO.6579 OF 2007 DATED 24.9.2007

BY ADV. SRI.P.R.RAMACHANDRA MENON,SC,KSDP LTD.
SRI.K.K.CHANDRAN PILLAI
SRI.R.V.SATHYAPRIYAN NAIR
SRI.K.RAMAKUMAR
SRI.R.JAYACHANDRAN
SRI. A.J. VARGHESE – GOVERNM ENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C)NO.10434/07

PETITIONER'S EXHIBITS

EXT.P1: COPY OF ORDER DATED 3.3.06 OF R1.

EXT.P2: COPY OF COMMUNICATION DT.28.10.06 SENT BY R1 TO INSPECTOR OF FACTORIES & BOILERS, ALAPPUZHA.

EXT.P3: COPY OF MEMORANDUM DATED 23.2.07 SUBMITTED BY THE PETITONERS ALONG WITH OTHERS BEFORE THE HON'BLE MINISTER FOR INDUSTRIES.

EXT.P4: COPY OF PETITION DATED 28.2.2007 ALONG WITH CHAPTER OF DEMAND DATED 23.2.2007 SUBMITTED BY THE 2ND PETITIONER BEFORE THE DISTRICT LABOUR OFFICER, ALAPPUZHA.

EXT.P5: TRUE COPY OF NEWS ITEM APPEARD IN THE MALAYALA MANORAMA DATED 6.3.2007

RESPONDENT'S EXHIBITS

EXT.R1(A): COPY OF THE LETTER NO.KSDP/MD/F 210/07 DTD 17.02.2007 SENT BY THE 1ST RESPONDENT TO THE SECOND RESPONDENT/GOVT.

EXT.R1(B): COPY OF THE REPLY BEARING nO.6192/H3/2007/ID DTD 03.04.2007 SENT BY THE GOVT.

EXT.R1(C): COPY OF THE G.O.(RT)NO.437/07/ID DTD 29.3.07 ISSUED BY THE GOVT. OF KERALA, DECLARING THE KSDP AS A 'RELIEF UNDERTAKING.

EXT.R3(A): COPY OF THE REPORT OF THE BOARD OF COMPANY.

TRUE COPY

PA TO JUDGE.

S. SIRI JAGAN, J.

W.P.(C)No.10434 OF 2007

Dated this the 24th day of September, 2007

JUDGMENT

The learned counsel for the additional 3rd respondent raises an objection to the continuance of stay on the ground that the writ petition itself is not maintainable. The contention is that the 1st respondent Company is not amenable to writjudication of this court in respect of such matters since there is no violation of any of the fundamental rights of the petitioners. Admittedly, the Company is going through a severe financial crisis as a result of which the Company is not able to pay even the salary of the employees of the Company. That being so, it defies logic as to why the Company should take a hasty decision to give pay parity benefits to a set of workers that too without concurrence from the Government, which owns the Company. That being so, I am satisfied that the writ petition is maintainable. However, the learned counsel for the 3rd respondent submits that it is more appropriate that the Government decides the mater. I feel that

the said submission is justified. Therefore, I dispose of this writ petition with a direction to the 2nd respondent to consider the matter in respect of which Ext.P3 is pending and pass appropriate orders thereon as expeditiously as possible, at any rate, within three months from the date of receipt of a copy of this judgment after affording an opportunity of being heard to all parties concerned, including the petitioners and the 3rd respondent. Till the Government takes a decision thereon the present position shall continue.

S. SIRI JAGAN, JUDGE

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